

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**FIRST CHRISTIAN CHURCH OF
PLANO**
PLAINTIFF

V.

CIVIL ACTION NO.

**THE HANOVER INSURANCE GROUP
DEFENDANT**

JURY DEMANDED

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Defendant, THE HANOVER INSURANCE GROUP, INC. ("Hanover"), and files this, its Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 as follows:

J. PROCEDURAL HISTORY

1. On September 6, 2017, Plaintiff, First Christian Church of Plano (“Plaintiff”) filed its Original Petition and initiated an action against Defendant, Hanover, in the 429th Judicial District Court of Collin County, Texas, in Cause No. 429-04305-2017 (the “State Court Action”). *See* Exhibit “A” attached hereto and incorporated herein by reference.
2. Hanover was served on September 11, 2017, with a copy of the Citation and Plaintiff’s Original Petition. *See* Exhibit “B” for a copy of the Citation attached hereto and incorporated herein by reference.
3. Hanover filed an answer in the State Court Action on September 29, 2017. *See* Exhibit “C” attached hereto and incorporated herein by reference.

4. On October 9, 2017, Hanover filed a Verified Plea in Abatement. *See Exhibit "D"* attached hereto and incorporated herein by reference.
5. Defendant's Notice of Removal was filed on October 10, 2017, which is within the thirty-day statutory time period for removal under 28 U.S.C. § 1446(b).

II. FACTUAL BACKGROUND

6. Hanover provided a commercial lines policy to Plaintiff under Policy No. ZHD-7132402-06 for the property located at 1501 Avenue H and 1520 Avenue G, Plano, Texas 75074 (the "Property"), effective January 7, 2016 to January 7, 2017 (the "Policy").
7. This suit arises out of a claim for property damage caused by a weather event on or about March 23, 2016. Plaintiff allegedly sustained physical damage to the structures during this weather event and contends that Defendant Hanover underpaid the loss.
8. Defendant Hanover does not admit the underlying facts alleged by Plaintiff and expressly denies liability to Plaintiff.

III. DIVERSITY JURISDICTION

9. Plaintiff, First Christian Church of Plano, is a domestic non-profit corporation incorporated under the laws of Texas and with its principal place of business in Plano, Collin County, Texas.
10. Defendant, Hanover, is a Delaware corporation, duly authorized and existing under the laws of the State of Delaware, with its principal place of business in the Commonwealth of Massachusetts.
11. Removal is proper because there is complete diversity between the parties.
12. Venue is proper in the Eastern District of Texas, Sherman Division, because the property made the subject of the suit is located within the Sherman Division.

13. The "matter in controversy" under 28 U.S.C. § 1332(a) is determined by reference to the plaintiff's pleadings. The damages the Plaintiff claims in its petition, if apparently claimed in good faith, are controlling. *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938). Plaintiff has pled that it seeks damages in excess of \$100,000.00 in its Petition at paragraph no. 1. See Exhibit "A." Thus, the total economic damages and attorneys' fees being sought exceeds the \$75,000 jurisdictional minimum amount in controversy.

IV. INFORMATION FOR THE CLERK

14. Plaintiff: First Christian Church of Plano

15. Defendant: Hanover Insurance Group, Inc.

16. The case is pending in the 429th Judicial District Court of Collin County:
Honorable Judge Jill Willis
2100 Bloomdale Road, Suite 10014
McKinney, TX 75071
Phone: (972) 548-4409

17. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, Defendant has attached copies of all processes and pleadings served upon it in the state court action. No further proceedings have been had therein. Pursuant to Local Rule 81, a copy of the trial court's docket sheet is attached as Exhibit "E" and an Index of Matters Being Filed is attached.

18. There are no other pleadings in state court.

19. Counsel for Plaintiff:

James M. McClenney; State Bar No.: 24091857
J. Zachary Moseley; State Bar No.: 24092863
Sean Paterson; State Bar No.: 24073546
MCLENNY MOSELEY & ASSOCIATES, PLLC
411 N. Sam Houston, Pkwy., Suite 200
Houston, TX 77060
Phone: 713-334-6121
James@mma-pllc.com
Zach@mma-pllc.com
Sean@mma-pllc.com

20. Counsel for Defendant, Hanover:

Peri H. Alkas

State Bar No.: 00783536

PHELPS DUNBAR LLP

500 Dallas, Suite 1300

Houston, Texas 77002

Phone: 713-626-1386

E-Mail: peri.alkas@phelps.com

Jury Demand

21. Plaintiff demanded a jury trial in state court.

22. Defendant demanded a jury trial in state court and requests a trial by jury in federal court as well. A separate Jury Demand will be filed pursuant to Local Rule CV-38(a).

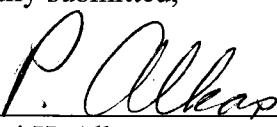
Miscellaneous

23. On the same day this Notice of Removal was filed, Defendant filed notice of this removal in the State Court Action. A copy of this Notice of Removal filed in the State Court Action is attached as Exhibit "F."

24. Because Plaintiff is a Texas non-profit corporation; Defendant is a business organized under laws of Delaware and having its principal place of business in Massachusetts; and the amount in controversy exceeds \$75,000, the Court has subject matter jurisdiction based on diversity of citizenship and residency. 28 U.S.C. § 1332. As such, this removal action is proper.

WHEREFORE, Defendant, Hanover Insurance Group, Inc., respectfully requests that the above entitled action be removed from the 429th District Court of Collin County, Texas, to the United States District Court for the Eastern District of Texas, Sherman Division.

Respectfully submitted,

By: 

Peri H. Alkas

ATTORNEY-IN-CHARGE

State Bar No. 00783536

Federal Bar No. 15785

PHELPS DUNBAR, LLP

500 Dallas, Suite 1300

Houston, Texas 77002

Telephone (713) 626-1386

Faxsimile (713) 626-1388

Email: peri.alkas@phelps.com

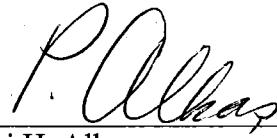
**ATTORNEY-IN-CHARGE FOR DEFENDANT,
HANOVER INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all known counsel of record as listed below by placing a copy of same in the United States mail, certified, return receipt requested, electronically, and/or hand delivery on October 10, 2017.

James M. McClenney
J. Zachary Moseley
Sean Paterson
McClenny Moseley & Associates, PLLC
411 N. Sam Houston Pkwy., Suite 200
Houston, TX 77060

VIA CM/RRR: 7014 3490 0000 3310 8188
VIA E-NOTIFICATION: James@mma-pllc.com
Zach@mma-pllc.com
Sean@mma-pllc.com


Peri H. Alkas